

In the United States District Court
Northern District of Oklahoma

FILED

United States of America)

FEB 16 2011

Plaintiff)

Phil Lombardi, Clerk
U.S. DISTRICT COURT

v.

Lindsey Kent Springer)
and Oscar Amos Stilley)

09-CR-043 SFF

No Env	OMJ
No	O/J
Cert Svc	No Env/Copy
Cert'd	CMJ
Mail	No Copy

Motion For Evidentiary Hearing

Lindsey Kent Springer ("Springer") moves this Court for an order allowing Springer an evidentiary hearing on his Motion For a New Trial filed Simultaneously herewith.¹

Springer in his memorandum sets forth 3 significant events occurring after trial that dramatically change how this Court would have ruled on the Franks and Suppression request filed on June 1, 2009.

First, Mr. Sher testified he did not know what his delegation of authority was as of April 21, 2010 while this purported criminal prosecution by purported institutional referral dated June 3, 2005, continued.

Second, on October 15, 2010, the Tenth Circuit, relying on the "declarations"

1. Springer has also filed for leave to file an overlength brief which is hand written and probably if typed would not exceed 25 pages

ME

of Mr. Shern and the other 10 Rivers Defendants, which declared they were each in Springer's home under the authority of the Secretary at Title 26, § 7608(b), when this Court found the demarcation for the Secretary to the U.S. Attorney was 3 months earlier.

The date in Springer's home was September 16, 2005, and the institutional referral this Court found was on June 3, 2005. See Doc. 383, 71, ln 1-5.

Prior to the Tenth Circuit's ruling the District Court had never relied upon the § 7608(b) statements. Springer did not have the referral letter until after Rivers Defendants interlocutory appealed to the Tenth Circuit.

Third, on January 18, 2011, after being in default for not responding to Springer's Motion to Reconsider, Judge Friesen ordered the Rivers Defendants to address their alleged false statements regarding when the bright line referral was institutionally made for Title 26 prosecution, supporting "prosecutorial immunity" and qualified immunity.

The prosecutors Horn and Nelson, as of June 3, 2005, did not assert the June 3, 2005 letter as their prosecutorial authority under Title 26 or "any other criminal provision of law relating to internal revenue" (§ 7608(b)) in support of their previous prosecutorial immunity claims.

Mr. Shern and the other 10 Rivers Defendants continue to argue they

were authorized by the Secretary of the Treasury under Title 26, § 7608(b) to

"enforce any of the criminal provisions of the Internal Revenue laws."

Their actual statement is:

"Last, IRS Special Agents are authorized to execute search warrants. 26 U.S.C. § 7608(b).

This Court used the terms "cease", Doc. 383, 61, In 16-19, the term "bright line", Doc. 383, 64, In 4-7, "line of demarcation", Doc. 383, 61, In 16-19, Doc. 383, 78, In. 8, and "definitive demarcation", Doc. 383, 70, In 20-24, to describe when the authority of the Secretary ends and the U.S. Attorneys begins.

There is no doubt Mr. O'Reilly, Mr. Snake, and Mr. Shern intentionally deceived this Court as to both Horn and Nelson's authority, as of September 16, 2005 to prosecute tax related offenses, and Mr. Shern and others authority to act on behalf of the Secretary on September 16, 2005 up until April 21, 2010.

Horn and Nelson, as well as Shern continue, as of January 25, 2011, to maintain the Secretary's authority was institutionally referred to Horn and Nelson, while remaining with Shern and 10 others.

Without the June 3, 2005 theory of referral, no other prosecutorial authority for tax related offenses is claimed to

have been made by O'Reilly, Stiles or
Shern to seek a grand jury indictment.
This becomes jurisdictional.

Springer intends to see a limited
remand from the Tenth Circuit once his
motion for a new trial is docketed.

Conclusion

Lindsey Kent, Springer request this
court set a date for an evidentiary
hearing on the issue raised in Springer's
Motion for New Trial.

Respectfully Submitted

Lindsey A. Springer
#102580-063

FCI - Big Spring
1900 Simler Ave.

Big Spring TX 79720

Certificate of Service

I hereby certify that I mailed Springer's
Motion for evidentiary hearing to the
Court Clerk, 333 W. 4th St., Tulsa, Okla.
74103, on February 8, 2011.

I further certify that all parties receive
service of Springer's Motion through the
ECF System.

Charles O'Reilly
Oscar Stilley

Lindsey A. Springer

m.e.

(4) of 4